

REMARKS

Claims 11, 12 and 14-20 have been amended. Claims 3, 13, 24, 29 and 34 were earlier cancelled. No new claims have been added. Claims 1-2, 4-12, 14-23, 25-28, 30-33 and 35 are pending.

Claim Rejections - 35 USC § 101

The Examiner rejected claims 11, 12 and 14-20 under 35 USC § 101 as directed to non-statutory subject matter. The Examiner rejected the claims as reciting a signal because the claimed “machine readable medium” may be transitory. Although we believe this rejection is not well founded and should be withdrawn, we have amended the claims pursuant to the Examiner’s recommendation. Claims 11, 12 and 14-20 have been amended to overcome this rejection. Claims 11, 12 and 14-20 have been amended to recite a “non-transitory computer readable medium” rather than a “machine readable medium.” As such this rejection should be withdrawn.

Though claims 11, 12 and 14-20 have been amended, this should not be taken as a concession that the rejection was correct. To the contrary, it is believed that claims 11, 12 and 14-20 as filed were directed to statutory subject matter. Because the application has been pending since 2004, expediency is now in the greatest interest of the assignee of the application. The amendments have been made because they present the path of least resistance. That is, by filing the amendment, claims 11, 12 and 14-20 in the application will be in condition for allowance. Thus, further delays arising from arguing the rejection are avoided, as are the costs of making the arguments. This is the sole motivation for the amendments to claims 11, 12 and 14-20.

Allowable Subject Matter

Claims 1, 2, 4-10, 21-23, 25-28, 30-33 and 35 are allowed. The indication of allowable subject matter is appreciated.

Disclaimers Relating to Claim Interpretation and Prosecution History Estoppel

The claims of this application are intended to stand on their own and are not to be read in light of the prosecution history of any related or unrelated patent or patent application. Furthermore, no arguments in any prosecution history relate to any claim in this application.

Additional Statements

The Examiner's consideration of the references of record is appreciated. It is presumed that the Examiner has considered the entire disclosure of each of the references of record with respect to anticipation (individually) and obviousness (in any combination).

References to "Applicant" herein are to the assignee of record, which the undersigned represents. An assignment has been recorded, and a Statement of Ownership and a General Power of Attorney have also been filed. Thus, the rights of the original Applicants/inventors have been excluded.

With respect to this filing, the Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 503456. Please consider this paper to be a petition for extension of time, if necessary.

Conclusion

For the reasons set forth above, all claims are patentable over the combination of references. It is respectfully submitted that the present application is now in condition for allowance. Reconsideration and reexamination are respectfully requested and allowance at an early date is solicited.

The Examiner is invited to call the undersigned to answer any questions or to discuss steps necessary for placing the application in condition for allowance.

Respectfully submitted,



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